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-VS-

PRETRIAL ORDER

KATZ, J.

1) This case will have an anonymous jury. The court will instruct jurors to have no contact with counsel, defendants, witnesses, members of the media or others not affiliated with the Court.

The Court directs that no such persons shall attempt to or have any contact with jurors in this case, directly or indirectly, before, during or after the trial.

a. Local Civil Rule 83.1 and Local Criminal Rule 53.1 prohibit cameras in the courthouse. No photographs, still or video, of jurors shall be taken at any time or place so as to preserve the anonymity of jurors.

b. Attached hereto as Exhibit A is a copy of Local Civil Rules 83.1 thru 83.4 and Local Criminal Rules 53.1, 57.1 and 57.3, with which the Court expects all attorneys and members of the media to familiarize themselves.

c. At no time shall members of the media or others be permitted in the well of the Courtroom.

2. The Court directs the attention of all counsel to ABA Model Rules of Professional Conduct, Rule 3.6, "Trial Publicity", which addresses the issue of extra-judicial statements by attorneys. A copy of that Rule is attached hereto as Exhibit B.

The Court expects the parties and their attorneys to abide by Rule 3.6 and to review the United States Supreme Court decision in *Gentile v. State Bar of Nevada*, 111 S.Ct. 2720 1991 for guidance as necessary.

3. All courtroom cameras utilized for projection of proceedings to remote sites within the courthouse will not be focused on jurors at any time.

4. All media, with proper identification, (which will be issued by the Clerk's office) will be permitted access to a separate room adjoining the Grand Jury Room in the basement of the courthouse, which will be equipped with a television monitor receiving images of the proceedings

in the courtroom. Further, space permitting, members of the media with proper identification will be permitted access to the courtroom.

5. During the course of this trial all persons entering the courthouse will be required to pass through the screening at the entry of the courthouse and all will be required to present government issued picture identification. Persons requesting entry to the Grand Jury room shall sign a register with their names and current addresses. (Court employees will, of course, continue to go through their regular screening process.)

a. Because of lack of space in the courtroom, the general public will be permitted access to view courtroom proceedings by video in the Grand Jury room in the basement of the courthouse on a first come, first seated basis.

6. All spectators entering the courthouse shall be suitably dressed in conventional clothing such as shirt, coat or jacket; no metal or hard studded clothing, including but not limited to, coats, belts and/or shoes or boots will be allowed in the courthouse. No insignia identifying a spectator, male or female, with any club or organization will be permitted in the courthouse.

7. As space permits, attorneys representing those defendants in this case to be tried at a later date will be permitted access to the courtroom.

8. No one will be permitted to enter or leave the courtroom except at regularly scheduled recesses.

9. No cell phones or other electronic devices will be permitted in the courthouse during the trial or during the voir dire process except those of attorneys and members of the media. All cell phones and other electronic devices shall be turned off when in the courtroom; CSO's shall inspect all cell phones and other electronic devices to assure compliance with this paragraph. The

foregoing excludes lap top computers utilized by attorneys in this trial. Also excluded are cell phones of Court employees.

10. The Court will provide a meeting/waiting place for witnesses as required; those rooms are anticipated to be the conference rooms of Judges Katz and Carr.

11. Court sessions, unless otherwise announced, will commence promptly at 9:00 a.m. Tuesday through Friday of each trial week. There will be morning, lunch and mid-afternoon breaks. It is anticipated that Court will adjourn each day between 4:00 and 6:00 p.m., dependent upon the flow of evidence at day's end.

a. Any issues which counsel desire to raise with the Court must be brought to the Court's attention in a timely fashion so as not to keep jurors waiting unnecessarily. Those matters impacting a day's trial session must be discussed with the Court beginning no later than 8:00 a.m. that day. Any other issues not in the nature of objections will be dealt with after Court has recessed for that day.

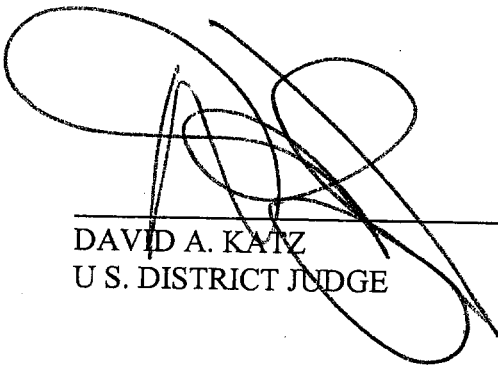
12. The Court will provide jurors with notebooks containing paper for note taking, a list of trial witnesses (to be provided at the beginning of each trial week), and the Court's preliminary jury instructions.

13. With respect to attorney participation in this trial, the Court expects that on or before Monday of each trial week the government will advise defense counsel of the witnesses anticipated to be called for that week. As to each witness, the Court shall be advised at the beginning of trial on Tuesday morning which attorney or attorneys will be conducting direct and cross examinations; those attorneys will also be expected to make any objections during the testimony of the witness for which he or she is responsible and to attend any side bar which occurs during that testimony.

14. The Court reminds all counsel for defendants that clothing intended to be used during the trial for those defendants who are in custody is to be delivered to the U. S. Marshal's Office at least five (5) days prior to the commencement of voir dire. The Court directs counsel's attention to the letter of instructions previously provided to each attorney by the U. S. Marshal's Service.

The Court is mindful that issues and circumstances may arise during the trial of this matter which will require additional orders or which may, in a particular instance, justify altering a particular segment of the foregoing order to fit the situation or a change in circumstances.

IT IS SO ORDERED.



DAVID A. KATZ
U.S. DISTRICT JUDGE

EXHIBIT A

Local Civil Rules -- Northern District of Ohio

CHAPTER XI GENERAL PROVISIONS

Rule 83.1 Photography, Radio, and Television

(a) **General Provisions.** The taking of photographs in the courtroom or its environs, radio or television broadcasting, and the use of equipment incident to radio or television broadcasting from the courtroom or its environs, during the progress of and in connection with judicial proceedings, both civil and criminal, whether or not court is actually in session, including proceedings before a Magistrate Judge or a session of the Grand Jury, are prohibited.

(b) **Definitions.** The term "environs" as used herein is defined as including certain property of the United States in the Northern District of Ohio, to wit: the "United States Court House and Federal Office Building" in Akron, Ohio; the "United States Courts and Customs House" in Cleveland, Ohio; the "United States Court House and Post Office" in Youngstown, Ohio; and the "United States Court House and Customs House" in Toledo, Ohio. Included in this definition are the buildings and all driveways and entrances into and exits from the said buildings, as well as the offices of the Clerk of Court, Probation offices, Pretrial Services, and offices of the United States Marshal, and all corridors, offices, rooms and other areas within these buildings. Not included within the definition of "environs" are the sidewalks adjacent to said buildings and a "press room" to be selected and designated by the Chief Judge, when requested, subject further to the supervision of the Judges of this Court, and then only upon the consent of the person or persons to be interviewed or photographed.

(c) **Recordings.** This Rule shall not prohibit recordings by a court reporter or other Court-designated representative; provided, however, no court reporter or any other person shall use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio or television broadcast of any kind. The Court may permit photographs of exhibits to be taken by, or under the direction of, the Court and counsel.

(d) **Proceedings Other Than Judicial Proceedings.** Proceedings other than judicial proceedings, designed and conducted as ceremonies, such as administering oaths of office to appointed officials of the Court, naturalization ceremonies, presentation of portraits and similar ceremonial occasions, may be photographed in, or broadcast, or televised from the courtroom with the permission and under the supervision of the Court.

(e) **Enforcement.** The United States Marshal is charged with the responsibility of taking necessary steps to enforce this Rule.

Local Civil Rules -- Northern District of Ohio

Rule 83.2 Duties of Court Personnel

All courtroom and courthouse personnel, including but not limited to Marshals, Deputy Marshals, Court Clerks, Court Reporters, Probation Officers, Pretrial Service Officers, and other personnel, shall not disclose to any person, without authorization by the Court, information relating to a pending criminal case or matters pending before the Grand Jury if such information or matters are not a part of the public record of the Court.

Local Civil Rules -- Northern District of Ohio

Rule 83.3 Courtroom and Courthouse Decorum

- (a) No loitering, sleeping, or disorderly conduct is permitted in any Court buildings.
- (b) No food, drink, cards, placards, signs or banners are permitted in any courtroom or adjoining areas, except as permitted by the Court.

Local Civil Rules -- Northern District of Ohio

Rule 83.4 Security in the Courthouse

(a) The United States Marshal, the Federal Protective Service and any other federal security force are authorized to require all persons entering any United States District Court in the Northern District of Ohio to pass through an electronic metal detector before gaining access to the building or the corridors leading to the Judges' chambers. Whenever any person who activates the detector wishes to gain access to these areas, such person must submit to a reasonable, limited search of his or her person and property in order to determine the existence, if any, of explosive or dangerous weapons that might cause injury to persons or property.

(b) All packages, bags, parcels, and brief cases shall be submitted for magnetometer, x-ray, and/or manual inspection upon entry into any United States District Court in the Northern District of Ohio. Any person who refuses to allow such inspection shall be denied entrance.

(c) Except for the United States Marshal, the Marshal's deputies and designees, no one shall have an explosive, incendiary, deadly, or dangerous weapon on or about his or her person while inside any United States District Court in the Northern District of Ohio, unless such person is a federal law enforcement officer, or is a law officer of another jurisdiction who receives approval of the United States Marshal. This approval shall be accomplished by signing a register in the office of the United States Marshal on each day that the person enters the courthouse with a weapon. Such register will record the date, signature of the person carrying the weapon, destination in the courthouse, and a brief description of the weapon.

(d) The United States Marshal and any other federal security force authorized by law are directed to enforce this Rule and to take into custody any person violating its provisions. Such persons who commit any violation of this Rule while outside the confines of a courtroom or in a courtroom outside the presence of the Judge or Judges of such Court shall be brought before a Magistrate Judge without any unnecessary delay. Such persons who commit any violation of this Rule while within the confines of a courtroom in the presence of a Judge or Judges shall be brought before the Judge or Judges as directed without unnecessary delay.

Local Criminal Rules -- Northern District of Ohio

Rule 53.1 Photography, Radio, and Television

(a) **General Provisions.** The taking of photographs in the courtroom or its environs, or radio or television broadcasting, or the use of equipment incident to radio or television broadcasting from the courtroom or its environs, during the progress of and in connection with judicial proceedings, both civil and criminal, whether or not court is actually in session, including proceedings before a Magistrate Judge or a session of the Grand Jury, is prohibited.

(b) **Definitions.** The term "environs" as used herein is defined as including certain property of the United States in the Northern District of Ohio, to wit: the "United States Court House and Federal Office Building" in Akron, Ohio; the "United States Courts and Customs House" in Cleveland, Ohio; the "United States Court House and Post Office" in Youngstown, Ohio; and the "United States Court House and Customs House" in Toledo, Ohio. Included in this definition are the buildings and all driveways and entrances into and exits from the said buildings, as well as the offices of the Clerk of Court, Probation offices, Pretrial Services, and offices of the United States Marshal, and all corridors, offices, rooms and other areas within these buildings. Not included within the definition of "environs" are the sidewalks adjacent to said buildings and a "press room" to be selected and designated by the Chief Judge, when requested, subject further to the supervision of the Judges of this Court, and then only upon the consent of the person or persons to be interviewed or photographed.

(c) **Recordings.** This Rule shall not prohibit recordings by a court reporter or other Court-designated representative; provided, however, no court reporter or any other person shall use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio or television broadcast of any kind. The Court may permit photographs of exhibits to be taken by, or under the direction of, the Court and counsel.

(d) **Proceedings Other Than Judicial Proceedings.** Proceedings other than judicial proceedings, designed and conducted as ceremonies, such as administering oaths of office to appointed officials of the Court, naturalization ceremonies, presentation of portraits and similar ceremonial occasions, may be photographed in, or broadcast, or televised from the courtroom with the permission and under the supervision of the Court.

(e) **Enforcement.** The United States Marshal is charged with the responsibility of taking necessary steps to enforce this Rule.

Local Criminal Rules -- Northern District of Ohio

Rule 57.1 Release of Information by Counsel

It is the duty of the lawyers associated with the prosecution and defense of a pending or imminent criminal case to refrain from releasing or authorizing the release of information or opinions related to the case if there is a reasonable likelihood that such release will interfere with a fair trial or otherwise prejudice the administration of justice.

The foregoing shall not preclude a lawyer, in the proper discharge of his or her duties, from announcing an arrest (including the name, age, and address of the subject) (including the place of arrest, resistance, pursuit, and the use of weapons), the identity of the investigating officer or agency, the length of the investigation, the announcement of the seizure of property or physical evidence other than a confession, a brief description of the offense charged, the penalty authorized by law, from quoting or referring to the public records of any stage of the judicial process, from requesting further assistance in obtaining judicial process, or from commenting that the accused denies the charges made against him or her. Counsel for the suspect/defendant shall not be precluded from responding appropriately to any such public information.

(a) During the trial of any criminal matter, including jury selection, no lawyer or law firm associated with the case shall give or authorize any interview or release of information relating to the trial, parties, or issues in the trial which would be expected to be disseminated by means of public communications media and reasonably likely to interfere with a fair trial, except that a lawyer may comment on public records of the Court and identify the stage of proceedings.

(b) After trial but prior to sentencing in any criminal matter, no lawyer or law firm associated with the case shall give or authorize any interview or release information which would be expected to be disseminated by means of public communications media concerning the sentencing, except that a lawyer may comment on the public records of the Court and identify the possible range of sentences.

(c) Nothing in this Rule is intended to preclude the formation of more restrictive rules relating to the release of information where the Court deems such restriction necessary. Furthermore, nothing in these Rules is intended to restrict argument of counsel in open court as to any matter addressed herein in the proper discharge of his or her duties, or to preclude the filing of documents, briefs, and motions as provided by law.

Nothing in this Rule shall preclude a lawyer from replying to charges of misconduct that are publicly made against that lawyer.

Local Criminal Rules -- Northern District of Ohio

Rule 57.3 Courtroom and Courthouse Decorum

- (a) No loitering, sleeping, or disorderly conduct is permitted in any Court buildings.
- (b) No food, drink, cards, placards, signs or banners are permitted in any courtroom or adjoining areas, except as permitted by the Court.

EXHIBIT B

ABA MODEL RULES OF PROFESSIONAL CONDUCT

Rule 3.6

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

- (1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;
- (2) information contained in a public record;
- (3) that an investigation of a matter is in progress;
- (4) the scheduling or result of any step in litigation;
- (5) a request for assistance in obtaining evidence and information necessary thereto;
- (6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
- (7) in a criminal case, in addition to subparagraphs (1) through (6):
 - (i) The identity, residence, occupation and family status of the accused;
 - (ii) If the accused has not been apprehended, information necessary to aid in apprehension of that person;
 - (iii) The fact, time and place of arrest; and
 - (iv) The identity of investigating and arresting officers or agencies and the length of the investigation.

(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).